

SEP 14 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MARK F. BROER,

Petitioner - Appellant,

v.

INDETERMINATE SENTENCE
REVIEW BOARD, a State agency; et al.,

Respondents - Appellees.

No. 05-35278

D.C. No. CV-04-02084-JLR

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted September 11, 2006^{**}

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

Mark F. Broer appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Broer's § 2254 petition seeks to challenge the constitutionality of Washington state statutes regarding the re-enfranchisement of convicted felons, and specifically, the Indeterminate Sentence Review Board's refusal to restore his voting rights. These claims are not cognizable in a habeas proceeding. *See* 28 U.S.C. § 2254; *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("essence of habeas is attack by person in custody upon legality of that custody, and traditional function of the writ is to secure release from illegal custody"). Accordingly, the district court properly dismissed Broer's petition.

AFFIRMED.